

**REMARKS**

Reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 5-14, 16-26 are pending in the application. Several claims have been amended to more clearly define the claimed subject matter. Claim 15 has been cancelled without prejudice or disclaimer. New claims 24-26 have been added to provide Applicants with the scope of protection to which they are believed entitled. The support of the added claims is found at least in Figs. 11 and 15 of the present application. No new matter has been introduced through the foregoing amendments.

Claims 5, 6, 13, 14 and 16-23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Crutcher* (US 5,722,098) in view of *Dittrich et al.* (US 6,712,255), hereafter “*Dittrich*.” Applicants respectfully traverse the rejection for at least the reasons discussed in the Amendment of September 22, 2010. In particular, none of the applied art singly or in alleged combination disclose or suggest an electric motor for driving a rotary feed member which is used for feeding the fasteners.

It appears to be the Examiner’s position at item 7 of the Office Action that *Dittrich* discloses using two kinds of powers on a driving tool, i.e., a pneumatic driven piston and a motor actuated “feeding” mechanism. Also, the Office alleges that the motor actuated “feeding” mechanism is used to “feed” a strip of propellant and independently actuated from the pneumatic drive piston.

However, even if the applied art were combinable, if at all, the alleged combination would not arrive at the claimed subject matter. In fact, the motor 63 (Fig. 9) of *Dittrich* is not used for driving a rotary feed member to feed fasteners/charges. As disclosed in *Dittrich*, e.g., Fig. 9 and column 7, lines 39-52, a cutting device 60 has the motor 63 for driving a rotating blade to cut a used magazine strip 22. See, also, *Dittrich* at Abstract, last sentence and column 1, line 57. In the other words, the resulting combination of *Dittrich* and *Crutcher* would have an electrical drive/motor 63 of *Dittrich* for only cutting the used fastener strip/connector 12 of *Crutcher*, which would still fail to disclose or suggest the claimed features of claim 5.

Furthermore, Applicants respectfully submit that in the art, there are problems with the structure which is used to feed fasteners by using a feed device which is powered by compressed air, however, it results in a complex movement of the feed device so that the feed process is not smooth and breakdowns readily occurred (see, paragraph [0008] of the published specification of the present application). In addition, as a result of using the electric motor for driving the rotary feed member, it is easy to use the fastener in a coil shape or a roll shape (see claim 6 and paragraph [0017] of the published specification).

Thus, although *Dittrich* discloses an electrical drive/motor 63, such electrical drive/motor 63 is different from the electric motor as claimed in claim 5 and one of ordinary skill in the art would not have had any reason to modify *Crutcher*'s tool to include *Dittrich*'s cutting electrical motor 63 for feeding the fasteners.

Claim 5 has nevertheless been further amended, solely to expedite the prosecution, to recite, among other things, “a rotation detection gear rotatable together with the rotary feed member and arranged coaxially with the rotary feed gear.” The feature finds support in at least Figs. 11 and 15 of the present application. Applicants respectfully submit that none of the applied art disclose or teach the highlight feature above. Neither *Crutcher* nor *Dittrich* discloses or suggests the claimed rotation detection gear as claimed. *Maynard* as applied in the Office Action does not disclose or teach a rotation detection gear which is arranged coaxially with a rotary feed gear.

Accordingly, for the reasons discussed above, claim 5 is patentable over the applied art and the rejection of claim 5 should be withdrawn.

Independent claims 16 and 20 recite similar features to claim 5, therefore, claims 16 and 20 are patentable over the applied art for the reasons advanced with respect to claim 5.

The rejected dependent claims depend from claims 5, 16 or 20, and are considered patentable at least by virtue of their dependency as well as on their merits.

Further, claims 19 and 23 recite that “the control circuit is arranged for, in response to the second detection that one of the fasteners has been fed to the fastener driving mechanism, turning off the motor before energizing the brake.” The cited text of *Dittrich*, e.g., column 7, lines 62-67, states that “the electrical control can be activated automatically, e.g., after each setting process or

after a predetermined number of setting processes, for actuation of the cutting device,” which does not disclose or suggest the highlighted feature. *Crutcher* does not cure the deficiencies of *Dittrich*. Therefore, claims 19 and 23 are patentable over the art.

Accordingly, the rejection should be withdrawn.

Claims 7-12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Crutcher* in view of *Dittrich*, and further in view of *Maynard* (US 3,628,715). Claim 15 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Crutcher* in view of *Dittrich*, and further in view of *Potuccek* (US 4,383,608). *Maynard* and *Potuccek* do not cure the deficiencies of *Crutcher* and *Dittrich*. Therefore, claims 7-12 and 15 which depend upon claim 5 are patentable for the reasons advanced with respect to claim 5. Accordingly, withdrawal of the rejections is respectfully requested.

New claim 24 recites “said rotation detection gear and the rotary feed gear are integrally fixed to a single shaft and the electric motor is free of direct attachment to the rotation detection gear and the rotary feed gear.” Further to the reasons discussed with respect to claim 5, claim 24 is patentable on its own merit. None of the applied references disclose or teach the highlighted features above.

Likewise, claims 25-26 are patentable over the applied art of record.

### Conclusion

Applicants respectfully submit that all the claims are in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicants' attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,  
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